

FILED

AUG 15 2008

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Clerk, U.S. District and
Bankruptcy Courts

Jeffrey North # 22170-038)

USP- MCCREARY
330 FEDERAL WAY
PO B 1870

v. PINE KNOT, KY. 42635

Case: 1:08-cv-01439

Assigned To : Kollar-Kotelly, Colleen

Assign. Date : 8/15/2008

Description: FOIA/Privacy Act

United States Department of Justice)

CIVIL COMPLAINT

PARTIES

- 1) The plaintiff is an incarcerated pro se litigant located at USP McCreary 330 Federal Way, PO Box 1870, Pine Knot KY 42635.
- 2) The defendant, U.S. Department of Justice (DOJ) is a government agency located at 950 Pennsylvania Ave. N.W. Washington, DC 20530-0001 Tel. 202-353-1555.

ADDITIONAL PARTIES

- 1) Drug Enforcement Administration, Washington, DC 20537.
- 2) Bureau of Alcohol, Tobacco, Firearms, and Explosives, Washington, DC 20226-0001.
- 3) Executive office for United States Attorneys, FOIA Staff, 600 E. Street, N.W., Suite 7300, Bicentennial Building, Washington, DC 20530-0001.

JURISDICTION

This Court has jurisdiction over this matter pursuant to

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28 U.S.C. § 1331 and/or 5 U.S.C. § 552 (a)(4)(B).

FACTS

On or about September 17, 2007 the Drug Enforcement Administration improperly withheld records when it denied an FOIA request by Mr. North for documents/records which contain debriefing statements of Gianpaolo Starita. On or about December 31, 2007 remedies were exhausted on this matter when the Office of Information and Privacy denied an appeal.

On or about July 17, 2007 the Bureau of Alcohol, Tobacco, Firearms and Explosives improperly withheld records when it denied an FOIA request by Mr. North for documents/records which contain debriefing statements of Gianpaolo Starita. On or about December 11, 2007 the Office of Information and Privacy granted Mr. North's appeal and remanded his FOIA request to the ATF with instructions to search for responsive records. On or about March 24, 2008 Mr. North received a notice from the ATF indicating that a search of its records did not locate the requested information. On March 4, 2008 Mr. North appealed the sufficiency of the ATF's to the Office of Information and Privacy, as of this date there has been no response by the OIP, therefore, pursuant to 5 U.S.C. 552 § 552 (a)(6)(C) the OIP's failure to timely respond constitutes an exhaustion of remedies on this matter.

On or about August 9, 2007 the Executive Office for United States Attorneys denied a request for documents/records that would indicate when the grand jury which returned a superseding indictment against Mr. North was convened for the first time and if there were any extensions of time applied for and/or granted,

such records were therefore improperly withheld. On or about the OIP granted an appeal by Mr. North and remanded his request to the EOUSA with instructions to search for responsive records. On or about March 31, 2008 Mr. North received a notice from the EOUSA that it had conducted a search for records in the United States Attorney's Office for the District of Massachusetts revealed no responsive records. As a matter of law this response does not indicate that the search was sufficient, an agency must search all files likely to contain responsive materials in order to conduct an adequate search and must indicate such in response to an FOIA request.

On August 15, 2007 Mr. North made an FOIA request to the EOUSA for a copy of a grand jury subpoena issued in his name in case of USA v. Paul DeCologero. The EOUSA denied this request on July 31, 2007 pursuant to 5 U.S.C. § 552(b)(3) "matters specifically exempted by statute" and Fed. R. Crim. P. 6(e) which provides that grand jury proceedings shall be secret. On November 5, 2007 the OIP denied an appeal on this issue at which point remedies were exhausted. The subpoena was improperly withheld.

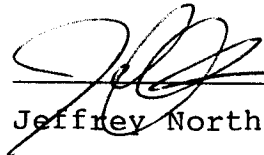
RELIEF REQUESTED

Mr. North moves this court to order the Drug Enforcement Agency to release all records containing statements made by Gianpaolo Starita, order the ATF to conduct a full and adequate search of all files likely to contain documents containing statements made by Gianpaolo Starita which would be the records that the OIP previously ordered to be released. Order the EOUSA to conduct a full and adequate search of all files likely to

contain responsive records, and order the EOUSA to release the grand jury subpoena issued in his name in the DeCologero case.

Order the U.S. Department of Justice to pay court costs and other fees and expenses.

Signed this day the 22nd of July, 2008.



Jeffrey North

I declare under the pains and penalties of perjury that the foregoing is true and correct to the best of my knowledge and memory.



Jeffrey North